

## Wage and Hour Division, Labor

## § 500.224

includes the last day of the period unless it is a Saturday, Sunday, or Federally observed holiday, in which case the time period includes the next business day; and

(c) When a request for hearing is filed by mail, five (5) days shall be added to the prescribed period during which the party has the right to request a hearing on the determination.

[54 FR 13329, Mar. 31, 1989]

### § 500.221 Commencement of proceeding.

Each administrative proceeding permitted under the Act and these regulations shall be commenced upon receipt of a timely request for hearing filed in accordance with § 500.212.

### § 500.222 Designation of record.

Except as provided in paragraph (c) of this section:

(a) Each administrative proceeding instituted under the Act and these regulations shall be identified of record by a number preceded by the year and the letters “MSPA” and followed by one or more of the following designations:

(1) Proceedings involving the “refusal to issue or to renew, or to suspend or to revoke Certificate of Registration” shall be designated as “R”.

(2) Proceedings involving the “assessment of civil money penalties” shall be designated as “P”.

(3) Proceedings involving both Certificate of Registration and assessment of civil money penalties shall be designated as “R and P”.

(b) The number, letter(s), and designation assigned to each such proceeding shall be clearly displayed on each pleading, motion, brief, or other formal document filed and docketed of record.

(c) Each administrative proceeding involving violations of FLCRA prior to April 14, 1983 and filed with the Office of the Chief Administrative Law Judge on or after April 14, 1983, shall be identified of record by a number preceded by the year and the letters “FLCRA-MSPA” and followed by one or more of the letter designations provided in paragraphs (a)(1) through (a)(3) of this section, i.e., (year) -FLCRA-MSPA-(#)-(R and/or P).

### § 500.223 Caption of proceeding.

(a) Each administrative proceeding instituted under the Act and these regulations shall be captioned in the name of the person requesting such hearing, and shall be styled as follows:

In The Matter of \_\_\_\_, Respondent.

(b) For the purposes of such administrative proceeding the “Secretary of Labor” shall be identified as plaintiff and the person requesting such hearing shall be named as respondent.

### REFERRAL FOR HEARING

### § 500.224 Referral to Administrative Law Judge.

(a) Upon receipt of a timely request for a hearing filed pursuant to and in accordance with § 500.212, the Secretary, by the Associate Solicitor for the Division of Fair Labor Standards or by the Regional Solicitor for the Region in which the action arose, shall, by Order of Reference, promptly refer an authenticated copy of the notice of administrative determination complained of, and the original or a duplicate copy of the request for hearing signed by the person requesting such hearing or by the authorized representative of such person, to the Chief Administrative Law Judge, for a determination in an administrative proceeding as provided herein. The notice of administrative determination and request for hearing shall be filed of record in the Office of the Chief Administrative Law Judge and shall, respectively, be given the effect of a complaint and answer thereto for purposes of the administrative proceeding, subject to any amendment that may be permitted under these regulations.

(b) In cases involving a denial, suspension, or revocation of a Certificate of Registration (Farm Labor Contractor Certificate; Farm Labor Contractor Employee Certificate) or “certificate action,” including those cases where the farm labor contractor has requested a hearing on civil money penalty(ies) as well as on the certificate action, the date of the hearing shall be not more than sixty (60) days from the date on which the Order of Reference is filed. No request for postponement

## § 500.225

shall be granted except for compelling reasons.

(c) A copy of the Order of Reference, together with a copy of these regulations, shall be served by counsel for the Secretary upon the person requesting the hearing, in the manner provided in 29 CFR 18.3.

[48 FR 36741, Aug. 12, 1983, as amended at 61 FR 24866, May 16, 1996]

### § 500.225 Notice of docketing.

The Chief Administrative Law Judge shall promptly notify the parties of the docketing of each matter.

### § 500.226 Service upon attorneys for the Department of Labor—number of copies.

Two copies of all pleadings and other documents required for any administrative proceeding provided herein shall be served on the attorneys for the Department of Labor. One copy shall be served on the Associate Solicitor, Division of Fair Labor Standards, Office of the Solicitor, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, and one copy on the Attorney representing the Department in the proceeding.

#### PROCEDURES BEFORE ADMINISTRATIVE LAW JUDGE

### § 500.231 Appearances; representation of the Department of Labor.

The Associate Solicitor, Division of Fair Labor Standards, and such other counsel, as designated, shall represent the Secretary in any proceeding under these regulations.

### § 500.232 Consent findings and order.

(a) *General.* At any time after the commencement of a proceeding under this part, but prior to the reception of evidence in any such proceeding, a party may move to defer the receipt of any evidence for a reasonable time to permit negotiation of an agreement containing consent findings and an order disposing of the whole or any part of the proceeding. The allowance of such deferment and the duration thereof shall be at the discretion of the Administrative Law Judge, after consideration of the nature of the proceeding, the requirements of the public

## 29 CFR Ch. V (7–1–10 Edition)

interest, the representations of the parties, and the probability of an agreement being reached which will result in a just disposition of the issues involved.

(b) *Content.* Any agreement containing consent findings and an order disposing of a proceeding or any part thereof shall also provide:

(1) That the order shall have the same force and effect as an order made after full hearing;

(2) That the entire record on which any order may be based shall consist solely of the notice of administrative determination (or amended notice, if one is filed), and the agreement;

(3) A waiver of any further procedural steps before the Administrative Law Judge; and

(4) A waiver of any right to challenge or contest the validity of the findings and order entered into in accordance with the agreement.

(c) *Submission.* On or before the expiration of the time granted for negotiations, the parties or their authorized representatives or their counsel may:

(1) Submit the proposed agreement for consideration by the Administrative Law Judge; or

(2) Inform the Administrative Law Judge that agreement cannot be reached.

(d) *Disposition.* In the event an agreement containing consent findings and an order is submitted within the time allowed therefor, the Administrative Law Judge, within thirty (30) days thereafter, shall, if satisfied with its form and substance, accept such agreement by issuing a decision based upon the agreed findings.

#### POST-HEARING PROCEDURES

### § 500.262 Decision and order of Administrative Law Judge.

(a) The Administrative Law Judge shall prepare, as promptly as practicable after the expiration of the time set for filing proposed findings and related papers a decision on the issues referred by the Secretary.

(b) In cases involving certificate actions as described in § 500.224(b), the Administrative Law Judge shall issue a decision within ninety (90) calendar days after the close of the hearing.